

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

EVELYN GAINES, individually and as mother and
natural guardian of TYLER GAINES,

Plaintiff,

**ANSWER TO
DEFENDANTS'
COUNTERCLAIM**

-against-

DISTRICT COUNCIL 1707 HEALTH AND
INSURANCE FUND, DISTRICT COUNCIL 1707
HEALTH AND BENEFIT FUND and THE BOARD OF
TRUSTEES OF THE DISTRICT COUNCIL 1707 HEALTH
AND INSURANCE FUND,

08-CV-4229
(RMS)

Defendants.

Plaintiff EVELYN GAINES, individually and as mother and natural guardian of
TYLER GAINES, in response to Defendants' Counterclaim, allege as follows:

1. Deny knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph 62.
2. Deny the allegations contained in paragraph 63 except admit that Evelyn Gaines did suffer a Fourth degree laceration of the rectovaginal area resulting from the extension of an episiotomy during the birth of Tyler Gaines requiring surgical interventions.
3. Deny the allegations contained in paragraph 64 except admit that Evelyn Gaines did seek recovery from Jacqueline Monaco Bavaro, White Plains Obstetrics and Gynecological Associates, LLP, and White Plains Medical Center in Supreme Court, Bronx County, Index Number 6456/05 alleging that they caused her to suffer a Fourth degree laceration of the rectovaginal area resulting from an extension of the episiotomy during the birth of Tyler Gaines requiring surgical

interventions.

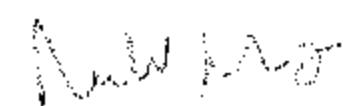
4. Deny knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph 65.
5. Deny knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph 66.
6. Deny the allegations contained in paragraph 67.
7. Deny the allegations contained in paragraph 68.
8. Deny the allegations contained in paragraph 69.

WHEREFORE, plaintiffs demand judgment dismissing the counterclaim, awarding plaintiffs costs and disbursements in connection with this action, and for such other and further relief as this court deems just and proper.

Dated: New York, New York
June 4, 2008

GAIR, GAIR, CONASON
STEIGMAN & MACKAUF
Attorney for Plaintiffs
80 Pine Street, 34th Floor
New York, New York 10005

By:


RICHARD M. STEIGMAN (RMS-2527)

AFFIDAVIT OF SERVICE

STATE OF NEW YORK)
) SS.:
COUNTY OF NEW YORK)

I, Jazmin Parra, being sworn say: I am not a party to the action, am over 18 years of age and reside in Queens Village, New York.

On June 4, 2008, I served a true copy of the annexed **ANSWER TO DEFENDANT'S COUNTERCLAIM** by mailing the same in a sealed envelope, with postage prepaid thereon, in an official depository of the U.S. Postal Service with the State of New York, addressed to the last known address of the addressee(s) as indicated below:

To: CAMPBELL & ASSOCIATES, P.C.
99 Tulip Avenue, Suite 404
Floral Park, New York 11001



Jagannath Panta

Sworn to before me on
June 4, 2008

Notary Public

DAVIDSON & CO. LTD.
New York, Boston, Chicago, San Francisco
Montreal, Toronto, Vancouver
Montreal, April 18, 1910
Constitution of the Canadian Co. of
Canadian Export April 18, 20